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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,787	03/24/2004	Billy W. McElhency	5090-0001	4257
28777	7590	09/20/2006	EXAMINER	
MICHAEL L. DIAZ, P.C. 555 REPUBLIC DRIVE, SUITE 200 PIANO, TX 75074			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,787

Applicant(s)

MCELHENEY, BILLY W.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-17, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Terminal Disclaimer

The terminal disclaimer filed on July 8, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,755,491 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

Claim 21 is objected to because of the following informalities: in line 14, pad should be pads. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-17, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 11 and 21, it is unclear whether or not the environments are to be claimed in combination with the OIT. In the preamble of each claim, only the OIT is positively being claimed i.e. environments appear in an intended use/"for" statement; however, in the body of each claim, the environments are positively claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernart et al in view of Sullivan. Bernart teaches a station (Fig. 1) comprising a front panel (26), a monitor (28) having a bottom portion supported on a support pad (78), a second support pad (36; Note: limitations found in "for"/intended use statements are given no weight in a claim), a partition (18) and a means for mounting the front panel on the partition and sealing the panel around the perimeter edge (see Fig. 4). On the partition is an aperture (126), an interface device (keyboard mouse) and a means (wiring of the keyboard and mouse) for connecting the device to the computer through the aperture in the partition (see Fig. 1). Bernart fails to teach adjustable strap means for retaining the computer against the partition. Sullivan teaches an adjustable strap means for retaining a computer with respect to a planar surface (Figs. 1 and 15A). It would have been obvious to add an adjustable strap around the computer of Bernart, such as is taught by Sullivan, help secure the computer in position.

Allowable Subject Matter

Claim 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claim 13, 17 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach an OIT station comprising a front panel, a monitor supported on two support pads, a partition and a means for mounting the front panel on the partition and sealing the panel around the perimeter edge. On the partition is an aperture, an interface device and a means for connecting the device to the computer through the aperture in the partition.

Response to Arguments

Applicant's arguments concerning the rejection of claims 1-20 over Bernart et al in view of Sullivan, III and Charapich have been fully considered and the argument dealing with the pads is persuasive. Therefore, the rejection as originally presented has been withdrawn. However, upon further consideration, a new grounds of rejection is being made using Bernart et al in view of Sullivan, III. The shelves 36 and 78 of Bernart being considered support pads.

Addressing the arguments concerning Sullivan for use with Bernart: the examiner contends that to add an adjustable strap means for retaining the monitor with respect to the partition and pad would have been an obvious consideration to help

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secure the computer in a desired position, limiting any vertical movement thereof. The fact that Sullivan's strap is shown supporting the monitor vertically would not preclude it from use with a horizontally oriented monitor. See for example reference of Greene et al (5,765,797; Fig. 1) wherein a strap helps position both a vertically oriented and horizontally oriented monitor.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

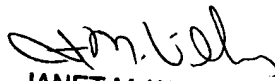
Addressing the environment argument: first, this limitation appears in an intended use portion of the preamble and therefore, is given little weight in the claim. Second, what is encompassed by a "harsh" environment is up to interpretation (e.g. kids playing ball on one side of the station could be considered a harsh environment, etc.). Third, the station of Bernart is capable of being used in such an environment (Note: the reference of Sullivan is only used for its strap teaching). The examiner argues that Bernart in view of Sullivan meets all of the limitations found in the claims via its structural make-up. See art rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
September 15, 2006


JANET M. WILKENS
PRIMARY EXAMINER
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